

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JON M. MCFARLAND,) Case No. 1:10-CV-98
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Petitioner,) Judge Dan Aaron Polster
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vs.)
) <u>ORDER</u>
KIMBERLEY CLIPPER, Warden,)
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Respondent.)

Before the Court is Petitioner Jon M. McFarland's Objection (**Doc. # 15**) to Magistrate Judge George J. Limbert's Report and Recommendation (**Doc # 31**). The Magistrate Judge recommends dismissing Petitioner's 28 U.S.C. § 2254 habeas corpus petition because of procedural default and because Petitioner's claims fail on the merits (**Doc. # 1**). The Court agrees with the Magistrate Judge that Petitioner has procedurally defaulted all eight grounds for relief and that Petitioner's claims fail on the merits.

Petitioner argues in his Objection that his plea was coerced. He writes, "Petitioner's plea was coerced. If it is allowed to stand an innocent man will have been denied his rights and freedom as guaranteed to him by the 5th, 6th, and 14th Amendments. Moreover, a fundamental miscarriage of justice will have taken place." (Doc. # 15 at 15). To the contrary, the transcript of Petitioner's plea colloquy shows that he fully understood the nature of the charges and the

consequences of pleading guilty. See McAdoo v. Elo, 365 F.3d 487, 494 (6th Cir. 2004) (holding that the state satisfied its burden of showing that the plea was intelligent and voluntary by producing a transcript of the state-court proceedings). Petitioner's solemn declarations in open court carry a strong presumption of correctness. Blackledge v. Allison, 431 U.S. 53, 74 (1977). The only way to overcome this strong presumption is by clear and convincing evidence. McAdoo, 365 F.3d at 494. Petitioner has not provided clear and convincing evidence to rebut the presumption.

Accordingly, the Court **OVERRULES** Petitioner's Objections (**Doc. # 15**), and **ADOPTS** the Magistrate Judge's Report and Recommendation (**Doc. # 31**) in full. Consequently, the underlying petition for writ of habeas corpus (**Doc. # 1**) is **DENIED**.

IT IS SO ORDERED.

/s/Dan Aaron Polster 1/17/12
Dan Aaron Polster
United States District Judge